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PTO/SB/21 (08-00)

Approved for use through 10/31/2002. OMB 0651-0031  
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

# TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

	Application Number	10/043,799
	Filing Date	01/09/2002
	First Named Inventor	Mihcael E. Tompkins
	Group Art Unit	2121
	Examiner Name	TBD
Total Number of Pages in This Submission	6	Attorney Docket Number

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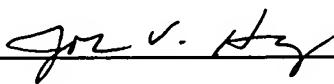
JAN 03 2003

Technology Center 2100

## ENCLOSURES (check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached  <input type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s)  <input type="checkbox"/> Extension of Time Request  <input type="checkbox"/> Express Abandonment Request  <input type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s)  <input type="checkbox"/> Response to Missing Parts/ Incomplete Application  <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): <b>Postcard</b>
Remarks		 <b>24201</b> <small>PATENT TRADEMARK OFFICE</small>

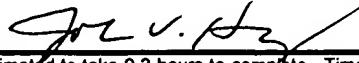
## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	John V. Hanley, FULWIDER PATTON LEE & UTECHT, LLP
Signature	
Date	03/26/2002

## CERTIFICATE OF MAILING

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Typed or printed name	John V. Hanley
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PTO/SB/17 (10-01)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**U.S. PATENT & TRADEMARK OFFICE**  
**FEET TRANSMITTAL**  
**for FY 2002**

Patent fees are subject to annual revision.

TOTAL AMOUNT OF PAYMENT (\$ 130.00

**Complete if Known**

Application Number	10/043,799
Filing Date	01/09/2002
First Named Inventor	Michael E. Tompkins
Examiner Name	TBD
Group Art Unit	2121
Attorney Docket No.	BALIN-59231

**METHOD OF PAYMENT**

1.  The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to:

Deposit Account Number **06-2425**  
 Deposit Account Name **Fulwider Patton et al.**

Charge Any Additional Fee Required  
Under 37 CFR 1.16 and 1.17

Applicant claims small entity status.  
See 37 CFR 1.27

2.  Payment Enclosed:

Check  Credit card  Money Order  Other

**Fee Calculation****1. BASIC FILING FEE**

Large Entity Small Entity

Fee Code (\$)	Fee (\$)	Fee Code (\$)	Fee Description	Fee Paid
101	740	201	370 Utility filing fee	
106	330	206	165 Design filing fee	
107	510	207	255 Plant filing fee	
108	740	208	370 Reissue filing fee	
114	160	214	80 Provisional filing fee	

SUBTOTAL (1) (\$)

**2. EXTRA CLAIM FEES**

Total Claims	Extra Claims	Fee from below	Fee Paid
Independent Claims	-20** =	X	=
Multiple Dependent	-3** =	X	=

Large Entity Small Entity

Fee Code (\$)	Fee (\$)	Fee Code (\$)	Fee Description
103	18	203	9 Claims in excess of 20
102	84	202	42 Independent claims in excess of 3
104	280	204	140 Multiple dependent claim, if not paid
109	84	209	42 ** Reissue independent claims over original patent
110	18	210	9 ** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$)

\*\*or number previously paid, if greater; For Reissues, see above

**Fee Calculation (continued)****3. ADDITIONAL FEES**

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
105	130	205 Surcharge - late filing fee or oath	
127	50	227 Surcharge - late provisional filing fee or cover sheet	
139	130	139 Non-English specification	
147	2,520	147, 2,520 For filing a request for ex parte reexamination	
112	920*	112, 920* Requesting publication of SIR prior to Examiner action	
113	1,840*	113, 1,840* Requesting publication of SIR after Examiner action	
115	110	215 Extension for reply within first month	
116	400	216 Extension for reply within second month	
117	920	217 Extension for reply within third month	
118	1,440	218 Extension for reply within fourth month	
128	1,960	228 Extension for reply within fifth month	
119	320	219 Notice of Appeal	
120	320	220 Filing a brief in support of an appeal	
121	280	221 Request for oral hearing	
138	1,510	138, 1,510 Petition to institute a public use proceeding	
140	110	240 Petition to revive - unavoidable	
141	1,280	241 Petition to revive - unintentional	
142	1,280	242 Utility issue fee (or reissue)	
143	460	243 Design issue fee	
144	620	244 Plant issue fee	
122	130	122 Petitions to the Commissioner	130.00
123	50	123 Processing fee under 37 CFR 1.17(q)	
126	180	126 Submission of Information Disclosure Stmt	
581	40	581 Recording each patent assignment per property (times number of properties)	
146	740	246 Filing a submission after final rejection (37 CFR § 1.129(a))	
149	740	249 For each additional invention to be examined (37 CFR § 1.129(b))	
179	740	279 Request for Continued Examination (RCE)	
169	900	169 Request for expedited examination of a design application	
		Other fee (specify) _____	
		*Reduced by Basic Filing Fee Paid	SUBTOTAL (3) (\$ 130.00

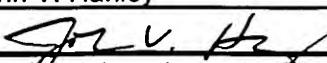
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**SUBMITTED BY**

Complete (if applicable)

Name (Print/Type)	John V. Hanley	Registration No. (Attorney/Agent)	38,171	Telephone	310-824-5555
Signature				Date	03/26/2002

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Please acknowledge receipt of our Petition to Make Special and Statement in Support of Petition along with transmittal forms and filing fee \$130.00 in re application of:

Inventor: Michael E. Tompkins, et al.

Serial No.: 10/043,799

Filed: January 9, 2002

Title: SPA CONTROL SYSTEM

Due:

Mailed: March 26, 2002

JVH:kst

BALIN-59231

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**Technology Center 2100**

Please acknowledge receipt of our Petition to Make Special and Statement in Support of Petition along with transmittal forms and filing fee \$130.00 in re application of:

Inventor: Michael E. Tompkins, et al.

Serial No.: 10/043,799

Filed: January 9, 2002

Title: SPA CONTROL SYSTEM

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JVH:kst

BALIN-59231





PATENT  
BALIN-59231

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of  
Michael E. Tompkins, et al.  
Serial No. 10/043,799  
Filing Date: January 9, 2002  
For: SPA CONTROL SYSTEM  
Date: March 26, 2002

Examiner: TBD

Art Unit: 2121

**Certificate of Mailing Under 37 C.F.R. § 1.8**

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John V. Hanley, Reg. No. 38,171

**PETITION TO MAKE SPECIAL BECAUSE OF  
ACTUAL INFRINGEMENT (37 C.F.R. § 1.102 AND M.P.E.P. § 708.02)**

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Commissioner for Patents  
Washington, D.C. 20231

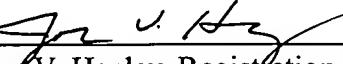
Technology Center 2100

Dear Sir:

Applicant hereby petitions to make this application special because of actual infringement. Accompanying this petition is a Statement by Assignee in Support of Petition to Make Special Because of Actual Infringement. Also enclosed is a fee to cover this petition. Authorization is hereby made to charge any additional fees required by this paper or credit any overpayment to our deposit account number 06-2425. A duplicate of this paper is attached.

Respectfully submitted,

FULWIDER PATTON LEE & UTECHT, LLP

By:   
John V. Hanley, Registration No. 38,171

JVH:kst  
Enclosures  
6060 Center Drive, Tenth Floor  
Los Angeles, California 90045  
(310) 824-5555; (310) 824-9696 facsimile  
#230887



PATENT  
BALIN-59231

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of

Michael E. Tompkins, et al.

Serial No. 10/043,799

Filing Date: January 9, 2002

For: SPA CONTROL SYSTEM

Date: March 26, 2002

Examiner: TBD

Art Unit: 2121

**Certificate of Mailing Under 37 C.F.R. § 1.8**

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John V. Hanley, Reg. No. 38,171

**STATEMENT IN SUPPORT OF PETITION TO MAKE SPECIAL  
BECAUSE OF ACTUAL INFRINGEMENT (M.P.E.P. § 708.02)**

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Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

I, David Cline, am the President of Balboa Instruments, Inc., 1382 Bell Avenue, Tustin, CA 92780, an assignee of this case and make the following statements:

1. I have made a rigid comparison of the MSPA and SSPA model spa controls with the claims of this application. Such products are currently being sold by Gecko Electronique Inc.
2. That, in my opinion, claims 35-40, 45-52, 54-59 and 64-71 on file in this application are unquestionably infringed.

SERIAL NO.: 10/043,799

PATENT  
BALIN-59231

3. I have caused to be made searches of the pertinent prior art. All such material art identified has been provided to the Examiner in Information Disclosure Statements filed in this case.

4. That I believe all the claims in this application as on file are allowable.

Date: 03/21/2002



\_\_\_\_\_  
David J. Cline  
President, Balboa Instruments Inc.

#230889

075878

## FULWIDER PATTON LEE &amp; UTECHT, LLP

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ATTORNEYS AT LAW  
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LOS ANGELES, CA 90045

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